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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/034,415	03/04/1998	PASCAL MICHAUD	1798-7267	3308

7590 07/27/2004

FREDERICK F. CALVETTI
C/O SMITH, GAMBRELL & RUSSELL
1850 M. STREET, N.W.
SUITE 800
WASHINGTON, DC 20036

EXAMINER

CROSS, LATOYA I

ART UNIT	PAPER NUMBER
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1743

DATE MAILED: 07/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/034,415

Applicant(s)

MICHAUD, PASCAL

Examiner

LaToya I. Cross

Art Unit

1743

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

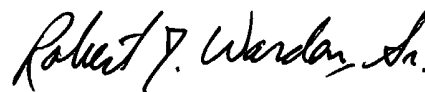
3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.Claim(s) objected to: none.Claim(s) rejected: 1-4,6-8 and 11-15.Claim(s) withdrawn from consideration: none.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because: Applicants argue that the fluorinated solvent of the claimed invention is different from the fluorinated solvent of Zisman. It should be noted that Zisman teaches perfluorohexane as a fluorinated solvent. Perfluorohexane is one of Applicant's preferred fluorinated solvents (claim 6) and thus falls within the scope of the fluorinated solvents recited. Next, Applicants argue that the claims require a surface active agent, separate and distinct from the solvent. It should be noted that nothing in the claims requires the surfact active agent to only serve as a surface active agent and to not have solvent capabilities. Zisman teaches both a surface active agent and a solvent - sufficient to meet the claim limitations. Applicants attempt to argue what the components serve as in the composition, however, the function of each component is irrelevant, so long as the composition contains the components recited. Applicants refer again to the declaration filed on 12/2/03. As stated in the previous rejection, the declaration is insufficient to show that the small difference in the amount of fluorinated solvent claimed performs unexpectedly over that taught by Zisman. Since Zisman generally teaches removing water and organic materials using 1% fluorinated solvent, the ordinarily-skilled artisan would expect that 2% fluorinated solvent would also be sufficient. Applicants have not shown otherwise. Such showing would clearly set forth the difference between the instant invention and Zisman. With respect to the rejection over Zisman in view of Bil et al, Applicants argue that there is no motivation to add a surface active agent to a composition which supposedly is already surface active. The Examiner disagrees. Bil et al teach advantages such as reduced de-emulsification time and accelerated separation of aqueous and organic phases.



ROBERT J. WARDEN, SR.
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700